IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 2932 of 2007(Y)

PETITIONER:

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1. P.T.PAUL,
   PALLIPPADAN HOUSE, ANGADIKADAVU,
   ANGAMALY- 683 572.

2. ELSY PAUL,
   W/O. P.T.PAUL, PALLIPPADAN HOUSE,
   ANGADIKADAVU, ANGAMALY- 683 572.

BY ADV. SRI.MOHAN PULIKKAL
SMT.MANJU RAJAN
SRI.PAULCY KURIAN

RESPONDENTS:

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1. THE KERALA FINANCIAL CORPORATION,
   THIRUVANANTHAPURAM, REP.BY ITS MANAGING DIRECTOR.

2. THE CHIEF MANAGER,
   KERALA FINANCIAL CORPORATION,
   BRANCH OFFICE, FINANCE TOWER, 1ST FLOOR,
   KALOOR, KOCHI- 682 017.

3. THE DEPUTY TAHASILDAR (RR),
   OFFICE OF THE DEPUTY TAHASILDAR (RR),
   KERALA FINANCIAL CORPORATION, FINANCE TOWER,
   1ST FLOOR, KALOOR, KOCHI- 682 017.

4. ADAM CIRCLE BUILDING OWNERS ASSOCIATION,
   REG.NO.ER 659/2001, ANGAMALY,
   REP.BY ITS PRESIDENT K.V.SAJIVE,
   KOORAN THAZHATHUPARAMBIL HOUSE,
   ANGAMALY.

5. M.V.THOMAS MUKKANCHERRY,
   M/S.PENTA BUILDERS & DEVELOPERS,
   PENTA SQUARE, 2ND FLOOR, M.G.ROAD, KOCHI-35.

6. MRS.BEENA THOMAS,
   W/O.M.V.THOMAS,
   MUKKANCHERRY HOUSE, VENGOLA P.O.,
   PERUMBAVOOR.

BY ADV. SRI.M.M.SAYED MUHAMMED, SC, KFC
GOVT.PLEADER SMT.M.K.PUSHPALATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

Ext. P1: True copy of the Sale Deed dated 8-7-1999 of Sub-Registrar's Office, Angamaly

Ext.P2: True copy of the letter dated 07-12-2005 addressed by the 2nd respondent to the President of the 4th respondent Association

Ext.P3: True copy of the list submitted by the 4th respondent to KFC

Ext.P4: True copy of the auction notice published in the Mathrubhumi Daily dated 11-01-2007

Ext.P5(a): True copy of the representation dated 11-01-2007 submitted by the petitioner to the 1st respondent.

ExtP5(b) : True copy of the representation dated 11-01-2007 submitted by the petitioner to the 2nd respondent.

//True copy//

K.BALAKRISHNAN NAIR, J.

WP(C).No.2932 of 2007-Y

Dated this the 14th day of February, 2007.

JUDGMENT

The respondents 5 and 6 are in default to the first respondent Corporation under a loan availed of by them. The petitioners purchased a plot of land having an extent of 7.58 Ares from the said respondents. The transfer took place admittedly after the mortgage of the said property in favour of the Kerala Financial Corporation. Therefore, K.F.C is ignoring that transfer and is taking steps to recover the amounts due to it by sale of the said property also, under the Revenue Recovery Act. Item No.2 notified in Ext.P4 notification is the property purchased by the petitioners. The balance of the property which was mortgaged to the K.F.C. were sold by respondents 5 and 6 to various persons on undivided share basis. The 4th respondent is an association of such transferees. The petitioners submit the said association was permitted to settle the loan account under the one-time-settlement scheme. But, the said facility is not extended to them. In the above back ground, this writ petition was filed praying to quash Ext.P4 to the extent it notifies for sale, the property belonging to them.

2. The first respondent has filed a statement in which it is

submitted that the entire property owned by the petitioners as well as the members of the 4th respondent association were mortgaged to it. Though, the loanees were given chance to settle the loan account under the O.T.S. Scheme as per the orders of this court, they have failed to do that. Now, steps have been taken against the members of the 4th respondent also. Having regard to the involvement of several owners, it may not be possible for all of them to come together and settle the loan account under the O.T.S. Scheme. I feel that the first respondent should consider whether the petitioners could be permitted to redeem their property by paying the market value of it, subject to any concession which may be granted to the defaulter, to close the loan account.

2. If the petitioners pay Rs.2 lakhs (Rupees two lakhs only) on or before 12.30 A.M. on 20-2-2007, the sale of Item No.2 notified for sale under Ext.P4 shall be adjourned by two months. The K.F.C. may give an offer to the petitioners, to purchase the property, having regard to the upset price and the market value that the property may fetch in the event of sale, within one month. They shall be given one months' time from the date of communication of the decision to pay off the amount and to redeem the property in their possession which is notified as Item No.2 in Ext.P4. It is made clear that the K.F.C. need

take the decisions having regard to its interest.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.